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Jury Again Fails to Decide Case of Libyan Dissident's Shooting

FORT COLLINS, Colo., Dec. 3 (AP)—A jury failed again today to reach a verdict in the trial of ex-Green Beret Eugene Tafoya, a man accused of trying to murder a Libyan dissident but described by his lawyers as a "forgotten patriot" who got a raw deal from the CIA.

Faisal Zagallai, then a student at Colorado State University, was shot twice in the head with Tafoya's .22-cal. revolver on Oct. 14, 1980. He survived, but lost an eye. Tafoya admitted shooting Zagallai, 35, but said he did so in self-defense, after the Libyan pulled a 9mm semiautomatic pistol from beneath a sofa cushion.

Tafoya, 46, said he believed he was on a mission for the CIA when he went to Zagallai's apartment.

The jury, unable to reach a verdict after 5½ hours of deliberation Wednesday, returned today, but deliberations stalled during the afternoon and evening as attorneys argued about whether parts of the trial transcript should be read to the panel. Late tonight, the jury recessed.

The most serious charge before the jury was attempted first-degree murder and conspiracy to commit first-degree murder. The jury also had the option of convicting him of the lesser charges of attempted sec-

ond-degree murder, third-degree assault or conspiracy to commit third-degree assault.

The possible prison sentences ranged from two to 24 years.

Prosecutors alleged that Tafoya was hired to kill Zagallai by Edwin P. Wilson, a fugitive former CIA agent who has been indicted on charges of shipping explosives to Libya's Col. Muammar Qaddafi.

District Attorney Stu Van Meveren claimed in his closing argument Wednesday that Tafoya was paid about \$8,600 to kill Zagallai because Zagallai was critical of Qaddafi's regime.

Defense attorney Walter Gerash pictured Tafoya as a "forgotten patriot" who was "left out in the cold" by the CIA's denial of involvement with him. He tearfully read from the Bronze Star citation Tafoya was awarded in Vietnam in 1965. He told the jury that someone "so efficient and so powerful and so expert in combat" would not have bungled the job if he had been sent to kill Zagallai.

CIA general counsel Jerry Lee Johnson on the witness stand denied the agency had ever employed Tafoya.

Van Meveren told the jury it was ridiculous to believe Tafoya's claim that he was hired by a CIA agent

— known only as "John" — to visit Zagallai and warn him to stop his dissident activities.

"What interest does the CIA have in a student in Fort Collins, Colo., who was critical of another country?" Van Meveren asked.

Van Meveren said Tafoya "may be an expert soldier, but that doesn't make him an expert hit man."

"The defendant didn't try to maim, he went for the head. He came within inches of taking Faisal Zagallai's life and he nearly got away with it."

It was the chance discovery of Tafoya's .22-cal. revolver in a nearby irrigation ditch that led to his arrest at his home in Truth or Consequences, N.M., six months after the shooting.

In a case with similar overtones, Mohammed Shabata was sentenced to five years to life in Utah on Wednesday for his second-degree murder conviction in the death of Nabil Mansour, another Libyan student. Although the state did not offer a motive for the shooting, witnesses said Shabata supported the Qaddafi regime, while Mansour did not.

The FBI said its investigation turned up no connection between Shabata's case and rumored assassination attempts by Libyans in this country.